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Government, Military and Veterans Affairs Committee  
February 13, 2013

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[LB192 LB215 LB217 LB222]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 13, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB215, LB222, LB217, and LB192. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Dave Bloomfield; Russ Karpisek; Scott Lautenbaugh; John Murante; and Jim Scheer. Senators absent: Norm Wallman.

SENATOR AVERY: Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I represent District 28 here in Lincoln--I see some of my constituents in the audience or they used to be anyway--and I chair the committee. Before we start, let me explain a few things and introduce the committee. We will follow the order of the agenda as posted outside the door beginning with LB215 and then moving to LB222, and then LB217, and then LB192. We have most of the committee present--no, we don't--well, enough. Let's put it that way. I want to introduce all of them and I'll start here on the right with Senator John Murante from Gretna. He is a new member of the Legislature and a new member of the committee. Next to him is Senator David Bloomfield from Hoskins, also a new member of the committee. And the vacant chair there is for Senator Scott Lautenbaugh from Omaha, who is a new member of the committee also...or a former member, isn't he? Yeah. So he has returned he liked it so much. And next to him is Senator Scott Price, the Vice Chair of the committee, from Bellevue. Next to me on my right is Christy Abraham, the legal counsel for the committee. And soon to arrive, we hope, is Senator Karpisek from Wilber. And Senator Norm Wallman will not be with us today. He is celebrating his wife's recovery from an illness by taking a trip to Florida, I think, that his kids gave him. So I'm sure that he'll come back fully tanned. This is Senator Russ Karpisek. And over there at the end is Senator Jim Scheer from Norfolk. And on the very end is Sherry Shaffer, who is the committee clerk. If you wish to testify for or against any of these bills, we ask that you take the green form that is available at the entrance to the room. Each door has a table with these forms. Fill it out. Print it, making it very legible. When you arrive at the table, we ask that you say your name clearly and spell your name for the record. And then if you have any exhibits that you would like for us to see, you will need 12 copies. If you don't have 12 copies, the pages will get them for you. The pages are Will Rahjes from Elwood and Cicely Batie from Lexington. There's another sheet at each entrance too for those who do not wish to testify but would like to have your opposition to or support for any bill registered for the record, you can do that by just filling out this form. We would ask you also to turn off your cell phones or any electronics that you have that make noise. And if you have a habit of clicking your pen or tapping the wall or whatever it is that drives everybody crazy, don't do it. The introducers will go first with initial statements, followed by proponents, who would then be followed by opponents, and neutral testifiers. Closing remarks are reserved for the introducers. We ask that you listen carefully to prior testimony so that when you testify you don't repeat what has

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already been said. We will be using the light system. Three lights: green, you have four minutes on the green light. When the amber light comes on you have one minute. And then when the red light is on, your five minutes are over and we ask that you be...that you quit. So with that, I think I've covered everything. Senator Schilz, welcome back to the Government Committee. We will now open the hearing on LB215.

SENATOR SCHILZ: (Exhibits 1, 2) Thank you, Senator Avery and members of the Government Committee. My name is Ken Schilz, K-e-n S-c-h-i-l-z, and I represent the 47th Legislative District. I appear before you today to introduce LB215 which amends the Visitors Development Act. A little history: In 1989, Senator Tim Hall introduced the concept of a lodging tax to be utilized for improvement of visitor attractions and facilities in a county. I have attached some copies from the legislative history of LB262 which outlined this fund. There are three lodging taxes which have been developed in the state statute. The first, 1 percent tax on all hotel, motel, and bed-and-breakfast rooms, which is paid to the state Tourism Commission for the promotion of travel and tourism in the state. The second is the County Visitors Promotion Fund, which is an additional 2 percent tax which is utilized generally by the convention and visitors bureaus in counties for promoting the local area to attract travelers and tourists. The third fund is a 2 percent lodging bed tax which is known as the County Visitor Improvement Fund. This fund was established to improve the visitor attractions and facilities in the county. Current law outlines that the proceeds of County Visitors Improvement Fund shall be used to improve the visitor attractions and facilities in the county except that no proceeds shall be used to improve a facility in which pari-mutuel wagering is conducted. If the visitors committee determines that the visitor attractions in the county are adequate and do not require improvement, the governing body of the county--with the advice of the committees--may use the County Visitors Improvement Fund to promote, encourage, and attract visitors to the county to use the county's travel and tourism facilities. LB215 as introduced would change one simple word from "may" to "shall," meaning that if the committee determines that the attractions are adequate, the governing body of the county shall use the Fund to promote, encourage, and attract visitors to the county. In recent days we have met with the State Auditor and he and his legal staff have advised us that a better change would be for the language to state "may only" be used to promote, encourage, and attract visitors to the county. You may ask why this clarification is needed. Well, under current law, if the attractions are adequate the county may use the remainder of the funds to promote tourism facilities. It leaves it open that funds may be utilized for other purposes. By clarifying that the fund "may only"--with emphasis on "only"--it will assure that the intent of the original law is carried out. And that is provided in AM156. In discussions with NACO, it was brought to our attention that we needed clarifying language to assure that the counties do not have to utilize the entire fund each year. This change is in AM245, which I have provided to you as well. These amendments were offered to the stakeholders, and the majority of them responded that they are in support of LB215 with both amendments. Many counties are doing a fantastic job of judicious expending of these dollars for the appropriate

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purposes. However, there are instances where these dollars have become a slush fund possibly, for projects which may or may not promote tourism and travel facilities. Therefore, I believe this language will provide guidance to counties to expend these dollars correctly. I am also aware the Nebraska travel commission is in the process of setting up best management practices guidelines for expending these funds. We have several testifiers here today, and I ask for your support of AM156, AM245 to LB215, and your vote of LB215 out of committee. Thank you very much and I will say that I won't be here to close. I need to get back to Natural Resources Committee and then I have another hearing. So thank you, and I'd answer any questions. [LB215]

SENATOR AVERY: Thank you, sir. All right. Senator Price. [LB215]

SENATOR PRICE: Thank you, Senator Avery. So Senator Schilz, are you intimating that we have counties out there who are using the funds other than for tourism? [LB215]

SENATOR SCHILZ: Here's what I'm intimating: I'm intimating that the State Auditor has issues in going to audit something when you have permissive language like "may" instead of more concrete language that allows that auditor to then take into consideration whether or not those things are truly for promotion of tourism. [LB215]

SENATOR PRICE: Okay. Thank you. [LB215]

SENATOR AVERY: Any other questions? Senator Scheer. [LB215]

SENATOR SCHEER: Senator Schilz, so the whole intent is just to make sure that the funds are used for the purpose that they're being collected for. We're not changing where the funds are going but just making sure that the funds are spent appropriately in the attraction or the construction of tourist items. [LB215]

SENATOR SCHILZ: Absolutely. And I think to expand on that just a little bit if you would allow me, I think it's important that where we have these funds like this, that we do have some way to take a look at them to make sure that we're protecting those, because these funds are extremely important for counties to be able to use and to promote what's going on within the county as well as be able to improve and build structures and facilities that help that. And I just want to make sure that the integrity of these funds is maintained as we go forward and that there's a way to make sure that, you're right, these funds are being expended properly. [LB215]

SENATOR SCHEER: Thank you, sir. Thank you, Senator Avery. [LB215]

SENATOR AVERY: Senator Price. [LB215]

SENATOR PRICE: Thank you, Chairman Avery. If you would indulge me, it seems that

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a lot of this hinges on the word "adequacy" and whether we have an objective or subjective measurement, I mean, on what is adequate. I mean, once they say that everything is up to snuff, now we can use the money for whatever we want to. Are there...and if anybody who follows after you wants to try to answer this, I'd appreciate it. How do we differentiate between that, being that subjective decision versus having clear-cut return on investment, investment dollars, burn rates, and things like that? [LB215]

SENATOR SCHILZ: I think...right. I think that as you look at it...and we didn't want to get into the point where we were telling people what they could expend this money on, necessarily. What the point of it is, is to make sure that--each county is different in my opinion, and each county has different needs as far as facilities go, and each county should be able to say whether they believe they have expended enough on those facilities. The question then becomes, once that's done--and I think every county can make that determination themselves and I'm not so sure that we should step in the way of that--but once that's done then the question is that money is then to be...any money that's left over is then to be used for promotion. And we need to make sure that that has actually happened for the protection of these funds going forward. [LB215]

SENATOR PRICE: So it would be then almost equally good policy to say if you're not using it for this, then it should be rescinded? If you have enough money for your tourism and you've already said you don't have to do any more infrastructure, don't collect it. [LB215]

SENATOR SCHILZ: Yeah. The thing is, is that's exactly why the promotion part is in there, because you can never advertise enough, you can never...you know, you can always do promotion. And that's the--in my opinion--that's why that's there because you can have all the facilities in the world but if nobody knows how to get to the front door and nobody has a way to get there, then you have issues. So the reason that allows the promotion going forward is exactly what we're talking about. [LB215]

SENATOR PRICE: Thank you. [LB215]

SENATOR AVERY: Any other questions? I don't see any. Thank you very much. [LB215]

SENATOR SCHILZ: Thank you. Thank you. [LB215]

SENATOR AVERY: Proponent testimony? Well, I think we've seen you before, haven't we, Mr. Moody. [LB215]

TONY MOODY: (Exhibit 3) Like a bad penny, I keep showing up. Senators, thank you for your time today. My name is Anthony E. Moody, A-n-t-h-o-n-y E. M-o-o-d-y. Thank

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you for your time today. I'm here to speak to you as a proponent of LB215. Chairman Avery and members of the Government, Military and Veterans Affairs Committee, as I said my name is Tony Moody. I appear before you on behalf of the Nebraska Hotel and Motel Association. I also serve on the state's Nebraska Tourism Commission of which Senator Avery was just kind enough to tell me I was appointed to a few moments ago. And I also serve as regional vice president for John Q. Hammons Hotels and Resorts, representing the Embassy Suites-Omaha, the Embassy Suites-Lincoln, the Embassy Suites-La Vista, the Courtyard in La Vista, and the La Vista Conference Center. We thank Senator Schilz for introducing this bill which creates a much-needed accountability system for the tourism spending in Nebraska. Beginning in 1980, the state of Nebraska adopted legislation requiring hotels and motels to collect taxes from room occupants. These taxes began with a 1 percent for the state Tourism Promotion Fund and 2 percent tax for the local County Visitors Improvement Fund. In 1989 an additional 2 percent tax was added for the County Visitors Improvement Fund for Douglas County, and in ensuing years all other counties were added to allow this tax collection. The tax is collected by hotels, motels, bed-and-breakfasts based on the room rate times the percentage of tax. It is this County Visitors Improvement Fund that LB215 addresses. In 2010 our association conducted an extensive survey of all taxes collected by hotels and motels for room taxes. The hotel and motel industry collects over \$30.5 million annually in room taxes. The state of Nebraska keeps a 3 percent collection fee of \$417,000 annually collecting of the county room taxes. Current law states that the proceeds of the County Visitors Improvement Fund shall be used to improve the visitor attractions and facilities in the county. The County Visitors Promotion Fund shall be used to generally promote, encourage, and attract visitors to the county and to promote the use of travel and tourism facilities. These funds by current law and in LB215 remain under the control of the county. If enacted, LB215 would give clarity and transparency in spending the County Visitors Improvement Funds by the counties. Under current law, once a county has determined that the visitor attractions are adequate and do not require improvement, the governing body may use the improvement funds to promote, encourage, and attract visitors to the county to use the county's travel and tourism facilities. The new language, under Senator Schilz's amendment, would state that the governing body "may only" use the Improvement Funds to promote, encourage, and attract visitors to the county. I've attached to my testimony a legislative history on the creation of a fund in 1989 which was introduced by then Senator Tim Hall, indicating that the excess funds were to be used for promotion. Also attached is a study we did on total lodging taxes in Nebraska, and I have copies of this testimony right over here. In the past year, a county was audited for expenditures under this fund, and you have received a letter from State Auditor Mike Foley--a copy is also attached--explaining the clarity this legislation provides in how the funds will be expended. I would also like to point out that the hotels and motels in Nebraska will not garner any direct financial support from any of the funds in the Visitors Improvement Fund. We are diligent in our support to garner more travelers and tourists to Nebraska communities, thus benefiting all tourism attractions, restaurants, rental car agencies, hotels, motels, T-shirt shops,

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everything, increasing the tax base for all of Nebraska. We believe that the simple change in this law will go far in preventing the misuse of funds which were intended to promote travel and tourism in Nebraska. We are in support of Senator Schilz's amendment. We are also aware that the Nebraska Association of County Officials would like to see an amendment which would allow counties to save these funds, and we support this. There may be small counties who only collect \$1,400 per year and will not have enough to make needed repairs. Therefore, we would support allowing these funds to accrue so they could do larger things. I'm aware that Douglas County is already doing this without the language, but this would provide clarity. I thank you for allowing me time to testify today. If you have any questions, I would be happy to answer them. [LB215]

SENATOR AVERY: Thank you, Mr. Moody. Questions from the committee? Obviously, every piece of legislation has an origin. And I guess my question is, there's a problem we're trying to fix, right? [LB215]

TONY MOODY: Yes, sir. [LB215]

SENATOR AVERY: And we're not saying where the problem is exactly? [LB215]

TONY MOODY: I think as you've heard and as you will hear in testimony following me, that there are issues that need to be addressed. But what is in the past is in the past. What we are looking to do is make sure that the future of Nebraska, the future of Nebraska tourism, and the future of these dollars are protected and protected well. And we're making very minimal changes to a 30-plus-year-old bill to try to make sure those funds go where they were meant to originally go and stay there. [LB215]

SENATOR AVERY: Okay. Questions? I don't see any. Thank you for your testimony. [LB215]

TONY MOODY: Senator, thank you for your time. [LB215]

SENATOR AVERY: Additional proponent testimony? This is my constituent. [LB215]

KATHY MCKILLIP: (Exhibit 4) I will behave, Senator. [LB215]

SENATOR AVERY: Welcome. [LB215]

KATHY MCKILLIP: Good afternoon. And thank you, Senator and Chairman Avery and members of the Government Affairs Committee. I am Kathy McKillip, K-a-t-h-y M-c-K-i-l-l-i-p--I'm not used to readers--and I am the current executive director with the Nebraska Tourism Commission. And we would like to provide a few thoughts regarding LB215. As you may be aware, the Nebraska Tourism Commission recently completed

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the development of a statewide strategic plan. This plan was under the direction of LB684. It charged the commission with evaluating several elements within the tourism industry. Several components under review are organizational structure, staffing, marketing, regional growth and development, funding sources, and overall, a statewide assessment of assets and tourism potential. As part of this strategic plan, emphasis was placed on revisiting the Nebraska Visitors Development Act. As a commission, our budget is comprised of cash funds generated by the success of the Nebraska Visitors Development Act. The commission also currently receives \$250,000 from the state's General Funds. The Nebraska Tourism Commission is actively engaged with discussions with the Nebraska county officials, industry leaders, and private business owners on how to better enhance, utilize, and encourage increased lodging tax revenue to better promote tourism throughout Nebraska. The approach the commission is utilizing is the crafting of best practices and guiding principles that would enhance and complement the promotion of this development act. At this time, the Nebraska Tourism Commission offers its support of LB215. We would like to thank Senator Schilz for bringing the value and importance of tourism before this body and believe that the future of tourism plays an important role when it comes to generating revenue. Tourism is a key segment for Nebraska's state economy and the state's third largest industry. Tourism plays a critical role in the vitality of our state. I would attempt to answer any questions that the committee may have. [LB215]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. Thank you. [LB215]

KATHY McKILLIP: Wow. Thank you. [LB215]

SENATOR AVERY: Any other proponent testimony? Welcome. [LB215]

DONNA HERRICK: (Exhibit 5) Thank you. Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Donna Herrick, D-o-n-n-a H-e-r-r-i-c-k, and I am the owner of Norfolk Lodge and Suites at Divots Conference Center in Norfolk, Nebraska. I appear before you in support of LB215. Thank you to Senator Schilz and his staff for their hard work on this bill. Promoting Nebraska's many fine attractions, events, and facilities is currently funded solely by a tax on hotel and motel rooms. In some years, the Appropriations Committee has helped to fund the state tourism division with a little General Fund money. But for the most part, it is funded by travelers and guests paying the bed-lodging tax fund promotion at the state and county level which is collected by hotels, motels, and bed-and-breakfasts. The Visitors Improvement Fund which is addressed in this bill, has enhanced many fine attractions in the state. But in some cases, and in particular in more rural communities, attractions may be adequately funded and the remaining dollars are very much needed to assist in bringing more travelers and tourists to our rural areas. In less populated communities, the total dollars generated by the Visitors

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Promotion Fund can be teamed with the Visitors Improvement Fund to get a bigger bang for the buck in promoting our facilities and attractions. By tightening down the language--which currently states the excess funds "may" be used for promotion, to "may only" be used for promotion, will prevent these tourism dollars being spent for other expenditures not related to the purpose of the law. I thank you for allowing me to testify today. If you have any questions, I would be happy to answer them. [LB215]

SENATOR AVERY: Thank you, Ms. Herrick. Any questions? Senator Scheer. [LB215]

SENATOR SCHEER: Thank you, Senator Avery. Welcome, Donna. Donna is one of my constituents. So just listening to your testimony the basic point you would be making, in some areas, especially outside of the metropolitan area where there is not necessarily an attraction that needs to be maintained, the dollars are more importantly used for promotion and advertising to get people from populated areas up into the areas less populated in outside Nebraska. Is that a fair assessment? [LB215]

DONNA HERRICK: That would be a fair assessment. First off, the funds need to be used for the improvement of the bricks and mortar--the buildings. And if those needs have been met, then those dollars being spent for further promotion to bring more tourists to the area would be the goal. [LB215]

SENATOR SCHEER: Okay. Thanks very much. Thank you, Senator. [LB215]

DONNA HERRICK: Okay. Thank you. [LB215]

SENATOR AVERY: Thank you. Thank you very much for your testimony. Continuing with proponent testimony on LB215. Welcome, sir. [LB215]

ANDY POLLOCK: Thank you, Senator Avery, members of the Government, Military, and Veterans Affairs Committee. My name is Andy Pollock, that's A-n-d-y, Pollock, P-o-l-l-o-c-k, I'm here as registered lobbyist for the Nebraska Travel Association. It's a group that represents travel interests, people interested in travel, convention visitors bureaus across the state. And we are here to very strongly and briefly interject our support for LB215. We believe that it is a good step in the right direction to ensuring that the funds that are part of the County Visitors Improvement Fund are used for the purpose for which that fund was originally established and has been maintained over the years. I do thank Senator Schilz for introducing the bill. And I would also say that the travel association that I represent supports both the amendments that have been mentioned here, both the amendment that came out of the discussion with the Auditor's Office--I took part in that discussion. I think it was very helpful to hear the Auditor's perspective on this--as well as the amendment that apparently came from NACO. We've looked at that and we support that amendment too. With that, I would be glad to try to answer any questions. [LB215]



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SENATOR AVERY: Thank you, sir. Any questions? I don't see any. Thanks. [LB215]

ANDY POLLOCK: Thank you. [LB215]

SENATOR AVERY: Continuing with proponent testimony on LB215. Good afternoon. [LB215]

MICHAEL KOSALKA: (Exhibit 6) Good afternoon. I'm Michael Kosalka with the Metropolitan Hospitality Association. And it's M-i-c-h-a-e-l K-o-s-a-l-k-a. Chairman Avery and members of the Government, Military, and Veterans Affairs Committee, my name is Mike Kosalka. I'm here today to testify on behalf of the Metropolitan Hospitality Association in support of LB215. Thanks for allowing me to have the opportunity to speak today. As background, I am the director of operations of the DoubleTree Hotel in downtown Omaha and have worked in the hospitality industry for over 20 years. Additionally, I serve as president of the Metropolitan Hospitality Association which is a coalition of hospitality and tourism-related entities from the metro-Omaha area. On behalf of the hotel industry, I'd like to thank Senator Schilz for his commitment to improving tourism not only for Keith County but for statewide. Like Senator Schilz, MHA believes tourism can be an even stronger economic driver for Nebraska's economy. It is for this reason that hotels and developers have invested millions of dollars into communities like Omaha, Lincoln, La Vista, and others. The success of our profession is predicated on the strength of the tourism industry in the communities we work, which is why we strongly support legislation that will make it run more efficiently. But like Senator Schilz, we have concerns about the current process surrounding the utilization of lodging tax dollars for tourism, including the lack of coordination and input between industry experts and governing body of the county. We must break down the turf battles and professional silos that now exist between entities that deal with lodging tax dollars. Once this happens, we trust the process will have improved accountability and transparency, better planning, and an increased ability to respond to the changing dynamics of tourism. In the end, we believe there will be a better return on investment for communities and the state. We think this is important to point out, that great progress in tourism development has taken place across the state, but even more is needed to market Nebraska as a high-demand destination. And despite the current growing number and scope of attractions, wineries, museums, festivals, zoos, and outfitters, Nebraska consistently ranks near the bottom nationally in state dollars invested in tourism. It is for this reason that tourism-generated funds must be maximized and advised upon experts of the industry. We are here today to ask your help to clarify the language so that we can achieve our true potential as a statewide tourism destination. We believe LB215 will help do this. And although this bill is but one piece of a larger discussion and plan, we encourage you to support this proposal. Again, thank you for the opportunity of speaking today. And I'd be happy to answer any questions. [LB215]

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SENATOR AVERY: Thank you, sir. Questions? Senator Bloomfield. [LB215]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Mr. Kosalka--and you may not have the answer to this, it's just a question that I'm looking at--the lodging tax. Do you have any idea what percentage of that is actually paid by tourists versus businessmen that are here for business travel? Do you have a feel at all for that? [LB215]

MICHAEL KOSALKA: I do not, no. [LB215]

SENATOR BLOOMFIELD: Okay. Thank you. [LB215]

SENATOR AVERY: Any other questions? Thank you for your testimony. [LB215]

MICHAEL KOSALKA: Uh-huh. Thank you. [LB215]

SENATOR AVERY: We're still on proponent testimony. Any other supports of LB215? Good afternoon. [LB215]

TIM DARBY: (Exhibit 7) Good afternoon, Chairman and fellow senators. My name is Tim Darby, T-i-m D-a-r-b-y, I represent the Nebraska Hotel and Motel Association as well as the Metropolitan Hospitality Association. Currently, I'm the general manager of the Magnolia Hotel in Omaha. And I've been in the Omaha market for 24 years in the hospitality business at a couple of different hotels. I am here to support the discussion that's taking place today as well as support LB215. I am here to offer an example of, you know, part of the clarification that we're trying to get across today and where these funds or the dollars are going to. And we were given the opportunity to sit and see firsthand the discussion that takes place in awarding the grant dollars last year. And, you know, it kind of opened our eyes...opened my eyes for sure. If I could offer up an example here that, you know, possibly will show that there is some clarification that is needed. When we...when the council was reviewing the grants, one of the items that kind of opened my eyes--and, you know, asked a few questions--were two back-to-back grants that were offered. One grant was for the Metropolitan Community College Foundation and an event that's held out at the community college that attracts roughly 3,000 attendees. Their grant was for approximately \$10,000: \$5,000 for transportation, lodging, and food for staff, \$5,000 for newspaper and electronic-type of marketing. This is the way that was broken out. The council had discussed and approved the \$10,000. As you can see, the attendance was 3,000 attendees, 30 percent were outside of the Douglas County area, leaving about 900 attendees that would be in that area. The next one immediately following that award was for the Millard South Wrestling Club. That attendance...reported annual attendance of 1,950 folks, 90 percent outside of the county, so roughly 1,755 attendees. They were roughly awarded \$90,000. And for two like pieces, back to back, I asked a few questions and didn't really get a clear answer as

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far as how do you calculate or how do you come about deciding on the dollars that would be awarded to the groups or to the applicants that ask for those dollars? And truthfully, the answer was not real clear. I'm here to ask for support and clearing up this language that will help and direct those funds to promotion of our industry. And I'm here for any additional questions. [LB215]

SENATOR AVERY: Thank you. Questions from the committee? This is the kind of information I was asking for. [LB215]

TIM DARBY: Okay. [LB215]

SENATOR AVERY: Senator Price. [LB215]

SENATOR PRICE: Thank you, Chairman Avery. Sir, thank you for testifying and bringing us something to work with. But I'm wondering, early on in your package here we have Promotion Council's Recommendation 2012-2013 and there are a number of them here that just show a dollar amount, but then we don't see similar information, like reported attendance. [LB215]

TIM DARBY: I believe as you get deeper into the packet a few pages in, it starts detailing the attendance. Not all of the grants came with attendance tracking. There is some room for improvement there. There's a measurement, there's accountability, and it's, you know, there's no clear-cut way of deciding, you know, how do we divvy out these dollars. So you will see some attendance, you will see that there are many that do not. [LB215]

SENATOR PRICE: Great. Well, I appreciate that because it does say like a Summary of Application Requests, but I was just wondering why we had such a variance when we're talking about such large dollars. Thank you very much. [LB215]

TIM DARBY: Correct. Absolutely. Thank you. [LB215]

SENATOR AVERY: Do you think there might be some disputes down the road as to what actually is promoting tourism, because I look at the titles of some of these grants and I could make the case either side? Yeah, this promotes tourism or no, it doesn't. Tell me which argument you want to hear, and I think I can make it on a lot of these. So are you going to run into a lot of different opinions about as to what actually is promoting? [LB215]

TIM DARBY: The...if we get to that portion, I think asking it and basically writing that it has to be used for promotion is the first step. I think that that will clear up a great deal of maybe the discussion. [LB215]

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SENATOR AVERY: Just by passing this bill with the amendment, that would clear up the ambiguities? [LB215]

TIM DARBY: That it only must...may only be utilized. [LB215]

SENATOR AVERY: Well, Kennel Club, you probably would argue that's not an activity that is loaded with a bunch of tourism attraction? [LB215]

TIM DARBY: Well, that depends on the event that they are promoting. If they are promoting an event that brings in outside visitors to the community, I would say absolutely that is promoting. If they're doing a weekend event that does not attract outside visitors and it's a localized event, you know, the discussion I think needs to take place. Is that really, you know, where those dollars should be spent? Is it promoting our industry? [LB215]

SENATOR AVERY: Senator Price. [LB215]

SENATOR PRICE: Thank you, Chairman Avery. So to build on that a little further and make sure I understand, for years and years I've heard of an effort to put an amusement park somewhere along the Missouri River, sometimes it's in Iowa, sometimes it's in Douglas County. But let's just say they decide to put an amusement park in Washington County, and they commit dollars to pay for that through this Tourism Fund. Year one, yes, it's a tourism. Are year 2, 5, 10, and 20 still going to be a valid utilization of those funds? Are they promoting tourism because it's a regional attraction like a park would be, like a Six Flags or something like that? [LB215]

TIM DARBY: You know, I guess I hold my comment. I'm not quite sure. I can't look into the future. You know, we're trying to build this that it protects the dollars and, you know, the counties...I believe that there's a lot of counties that are doing it correctly. And in my case, my individual case, I think that we need to clear it up and make sure that we're doing it correctly. [LB215]

SENATOR PRICE: Well, I'm in absolute agreement with you. My point being that it could be a case to be made that when we start to add greater definition to this, that we are inclusive of an effort that would be a large capital expenditure on the part of a group that's going to be amortized over years. There's still an attraction. I mean, it's somewhat different maybe than--and I'm not a hotelier--but there could be something different from opening a hotel from opening an attraction-based facility, like a convention center maybe in... [LB215]

TIM DARBY: Sure. [LB215]

SENATOR PRICE: ...where we heard in Grand Island. But if you have something like

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that that's there for that purpose and if the county has designated that they want to expend a certain amount of dollars of revenue to help pay it off, it's still an ongoing thing that directly impacts tourism. [LB215]

TIM DARBY: Tourism, correct. [LB215]

SENATOR PRICE: And if we write this too prescriptive, we may isolate and leave that opportunity out for some very large developments down the road. Thank you. [LB215]

SENATOR AVERY: Any other questions? Thank you for your testimony, sir. [LB215]

TIM DARBY: All right. Thank you. [LB215]

SENATOR AVERY: All right. We're still accepting testimony on...for proponents on LB215. Anyone else wish to testify? All right. We'll now accept testimony in opposition. Good afternoon, sir. [LB215]

MIKE KELLEY: Good afternoon, Chairman Avery and members of the committee. My name is Mike Kelley, M-i-k-e K-e-l-l-e-y, I'm appearing here today as registered lobbyist for Douglas County. In the amendments that were talked about I believe they will support, but they have not taken a position on those yet so I'm not in a position to comment. And that might change their attitude on the bill. But at this point, I guess they believe and they want to defend the current system. And, Senator Avery, you hit it right on the head. I mean, people can differ a lot on this stuff and the tighter you draw it, I think, the worse it is. I think you have to give...you know, the Douglas County Board is in charge of this and they're their elected officials. I think delegating it to them is a good idea, and I think they do a good job. Naturally I would because I work for them. But we don't think the system is broke. We don't think the bill is needed. Although we do appreciate where Senator Schilz is coming...and maybe there are places where it is needed. I don't know. We think in Douglas County--that's all I can talk about--we think it's working okay, and we don't think it is needed. As I said, the amendments sounded good to me but they have not taken a position. And that's our...that's my only comments. Here for any questions you might have. [LB215]

SENATOR AVERY: Thank you. Questions from the committee? Don't see any. Thank you. [LB215]

MIKE KELLEY: Thank you. [LB215]

SENATOR AVERY: Any other opposition testimony to LB215? All right. Any neutral testimony? Good afternoon, sir. [LB215]

KERRY EAGAN: Good afternoon, Senator Avery and members of the Government,

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Military and Veterans Affairs Committee. My name is Kerry Eagan, that's spelled K-e-r-r-y, last name, E-a-g-a-n. I'm the chief administrative officer for the Lancaster County Board of Commissioners. I'm here to testify in a neutral capacity on LB215. First, I would like to thank Senator Schilz for introducing LB215. Tourism in Lancaster County is big business, and the funds collected under the Nebraska Visitors Development Act do play a crucial role in the development of future tourism. The county works very closely with our Visitors Promotion Committee which is the advisory committee under the act, and the entity that we've contracted with, which is the Lincoln Convention and Visitors Bureau, to help guarantee that the proceeds of the County Visitors Promotion Fund and the Visitors Improvement Fund are spent wisely to attract as many tourists as possible, and under the Improvement Fund to make sure that our facilities are not only adequate but are of the highest quality. Lancaster County has always interpreted Section 81-3717 to require that the proceeds of the Improvement Fund be used primarily for capital improvement of tourist facilities and if our committee determines facilities are adequate at that point in time, then the county board may then use the proceeds for visitor promotion purposes only, and no other purposes. It has to be visitors promotion as defined in the statute which, granted, is a very loose definition. The important point for us is that the County Board has discretion on whether to use the Improvement Fund--which is primarily intended for capital improvement--on promotion. Is that the wisest use of dollars at that point in time? So we think that LB215, as it tries to clarify the intent of the Legislature that the Improvement Fund--with that determination facilities are adequate--may be used for...or must be...if it's going to be used for something other than construction, it has to be promotion; we totally agree with that. At the same time, we feel the statute is adequate, so we would support any amendments, including the NACO amendment, that would clarify that the dollars raised under the Visitors Development Act are to be used for the promotion of tourism, whether it's facilities or actual promotion. With that, I'd be happy to answer any questions. [LB215]

SENATOR AVERY: Thank you, Mr. Eagan. Question from...Senator Price. [LB215]

SENATOR PRICE: Thank you, Chairman Avery. And thank you, Mr. Eagan. Could you shed some light on the part where you talk about how a decision is made where one applicant for these dollars is chosen over another? I mean, is it a situation of which has the greatest number of people from out of the city are coming in? Is it a numbers game or is there, well, we did plenty for this one segment of, let's say, theater. There's a theater group that wants to come in. We say, okay, we'll do it with the theater this time. Next time we do it for the skaters. And then the next time we do it...are we trying to do it on a diversity level or are we trying to do it sheerly on a numbers where we say this group came in with 3,000 people last year, anybody else who comes in only has 1,000 people, it goes to the one with the greatest draw? [LB215]

KERRY EAGAN: A lot of that is done by the Convention and Visitors Bureau as they

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develop their marketing plan and they look at the various events that we should support. We do talk to them about it, but we do defer a lot to the contractor that we have in that area, again to try to get the biggest bang for the buck. I guess that's the one guiding principle that we use. And we don't break it down with that level of specificity about, well, you got some this time, we'll give some here this time. With regard to the Improvement Fund, the County Board is quite a bit more involved in that because determining whether facilities are adequate is not an easy chore. And it also is, as you've mentioned, Senator, very subjective. So we try to be as thorough about that as possible. We work closely with the city of Lincoln which is a governmental entity which can receive grants, to determine...like the arena is a big project that needed our support. Lincoln Parks and Recreation has a number of facilities that might be used for softball tournaments. We're looking at one right now to improve the Helen Boosalis Trail because by widening it two feet between 48th Street and 27th Street, we can add 5,000 runners to the Lincoln Marathon. That adds about \$20,000 worth of additional Visitors Improvement tax if you look at the whole 4 percent, not to mention the turnover and the money that's spent in restaurants and shops and just people being in town. So we do try to look at that, but not with the specificity probably that we keep track of who got what and when. It's an ongoing process. [LB215]

SENATOR PRICE: And then going back to my prior question to another testifier: If you have a long-term investment and you're using these dollars to help take care of that debt, to retire that debt, do you see that if we get too prescriptive that you wouldn't be able to use these dollars to retire a debt (inaudible)? [LB215]

KERRY EAGAN: Well, the retiring debt is...it was one of the provisions that's allowed. I think Senator Beutler introduced an amendment about ten years ago, or probably more than that, that allowed you to accumulate money in the Improvement Fund to pay off debt, to pay...to bond indebtedness and use the fund for that purpose. But, yes, we would be concerned that if there's a decision made at a moment in time, your facilities are adequate and, therefore, you must use the money for promotion and you can't save it for purposes that we're not aware of at this time, but next year we might have a facility that needs help. We don't know that. So we don't want to be in a position where we're forced to spend money that's primarily intended for capital improvement on promotion. That would be our county board's biggest concern. We think the statute is adequate as written. We would welcome amendments that would clarify what we believe is the original intent of the Legislature. [LB215]

SENATOR PRICE: Thank you very much, sir. [LB215]

SENATOR AVERY: Senator Scheer. [LB215]

SENATOR SCHEER: Thank you, Senator Avery. Just some clarification. And perhaps you're not the one who makes the decision, but how far do you reach out? And I sort of

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by osmosis have heard that there was maybe some utilization of funds that maybe were questionable. And so, for example, you determine that you need a new salt barn for your trucks in the winter. Well, the salt makes the streets better and so, therefore, it's better for your tourists and travel. So how far do you take the utilization of those funds away from what I would consider direct tourism? [LB215]

KERRY EAGAN: Okay. Fair question. I think in that hypothetical, a salt dome; no question, out of it. We're not going to use money for that. We did ask for a county attorney opinion on whether we could improve a county road that led to a tourism facility which was the new motocross track out at the Abbott fields. The county attorney came back unequivocally that, no, that is not a tourism facility. If you look at the statute, you look at the definition of what a tourism facility is, you know, educational, historical significance or other factors listed in the statute, and it has to be that kind of facility. A road simply does not meet that criteria. So we always rely on the county attorney to interpret it for us if there's any gray area, and we try to err on the side of caution. [LB215]

SENATOR SCHEER: Okay, thank you. Thank you, Senator Avery. [LB215]

SENATOR AVERY: Thank you. Any other questions? Thank you, Mr. Eagan. [LB215]

KERRY EAGAN: Thank you, Senator. [LB215]

SENATOR AVERY: Other neutral testimony? Welcome, sir. [LB215]

LARRY DIX: Good afternoon, Senator Avery, members of the committee. My name is Larry Dix, spelled L-a-r-r-y D-i-x. I'm here as executive director of the Nebraska Association of County Officials, appearing in a neutral capacity. I would tell you, in the green copy our board originally had voted to oppose that bill. We certainly want to thank Senator Schilz for getting the amendments in there. Certainly our amendment clarifies an issue that was brought up among many of the smaller counties as they're trying to pool that money so that they can accumulate it; so it was very, very clear that it could be carried over from year to year. And so with that, I think everything else probably already has been said and covered. And I'd be happy to answer any questions anybody would have. [LB215]

SENATOR AVERY: Okay. Questions? No? Thank you for your testimony. [LB215]

LARRY DIX: Thanks. [LB215]

SENATOR AVERY: (Exhibits 8, 9) Any other neutral testimony on LB215? All right. Seeing no additional testifiers, that will end the hearing on...I've got to read something into the record. I have here a letter of opposition from the Sarpy County Board of



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Commissioners, and a letter of support from the Nebraska Auditor of Public Accounts to be read into the record. Now we will end the hearing on LB215 and move to the next bill. Senator McCoy magically appeared in the doorway at the right time. LB222. Welcome, Senator. [LB215]

SENATOR McCOY: (Exhibits 1, 2) Thank you, Chairman Avery and members of the Government Committee. I am Beau McCoy for the record, that is B-e-a-u M-c-C-o-y. I represent the 39th District, and I am before you here this afternoon to introduce LB222. Last year certainly some of you will remember LB782 was signed into law which requires a report submitted to the Legislature to be submitted electronically. This summer the Clerk of the Legislature brought to our attention the fact that a few reports were missed in LB782. As a sidebar comment that I think validates the original intent of LB782 and that was that there are an awful lot of reports that are due to the Legislature that even our drafting office, as good as they are, still didn't...they weren't able to put together all the reports that are out there. It took some additional time. Your handout that should be just going out to you, lists what reports are in the bill by section and what action we are requesting in LB222. The bill adds the electronic requirement to those reports, repeals the electronic reporting requirement for three reports that were included in LB782, and repeals the reporting requirement to the Legislature for 12 reports. We have been in contact with the Governor's Office and the Governor's Policy Research Office and they support repealing the entire reporting requirement which could be accomplished with the amendment that I brought if the committee would choose to act on LB222, which I think you just received that amendment. I do want to clarify that Section 42 does not change the current requirement that each agency report to the Legislative Performance Audit Committee the status on all rules and regulations pending before the agency which have not been adopted and promulgated. The additional changes in Section 42 are merely cleanup language. And Mr. Dick Brown, the Assistant Clerk, will be following behind me in a moment and can go into a little bit more detail on reports we are asking to be repealed and what all the amendment would do as well. And with that, I would close and take any questions if there are any. [LB222]

SENATOR AVERY: Thank you, Senator. Questions from the committee? We're very quiet today, Senator. Thank you. [LB222]

SENATOR McCOY: Thank you. [LB222]

SENATOR AVERY: All right. We will now accept proponent testimony to LB222. Welcome, sir. [LB222]

RICHARD BROWN: Thank you. Mr. Chairman and members of the committee, my name is Richard Brown, R-i-c-h-a-r-d, last name, B-r-o-w-n. I'm Assistant Clerk of the Nebraska Legislature. Last year during the interim, we worked quite a bit on the implementation of LB782 which essentially did require reporting in electronic format of

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all the reports that come both to our office and to members of the Legislature and try to develop that into a uniform basis. While we were working our way through that, we had two or three situations that we took a closer look at, that basically put us in the position to come back to you with LB222 which we consider cleanup legislation. First thing that we attempted to do was to take a second look at the administrative rules and regulations reporting requirement. There are two things that involve the Legislature as proposed rules move through the process. The first step is one in which the initial draft of a rule goes to the Executive Board for reference to one of the various standing committees that has subject-matter jurisdiction. And they have an opportunity to take a look and see what their thoughts are. The second thing is a report that is submitted to the Performance Auditor and which she takes a look and reports to the Performance Review Committee in a situation where that the actual implementation is going to take more than a year to get accomplished. So on those two particular situations, they're not reports as such. They are simply part of the overall process where paper documents are still used and are placed on file with the Attorney General's Office, with Policy and Research, and so forth. And it actually works better for all concerned if we try to have some consistency with that process. The second thing we found was a very few situations where since the original bill went into effect or sometimes on kind of an occasional basis, the reports have not been submitted or haven't been submitted recently. In LB222 what we did was to simply eliminate those provisions as far as reporting requirements. To give you an example, there are occasions where the statute said that the report shall be submitted from time to time. And time to time sometimes is quite a ways apart. So we basically have tried to clean those provisions up. The final thing that we're doing with LB222 is primarily to address the bills that were passed last year before LB782 became law. And it was just a little bit more than a Revisor's bill could be done, and that was to insert the word "electronically" for the reporting requirements that were imposed by legislation that was passed in 2012. So that's what we're trying to accomplish with this, and I'm open to any questions. [LB222]

SENATOR AVERY: Senator Price. [LB222]

SENATOR PRICE: Thank you, Chairman Avery. Sir, thank you for your testimony and clarifying that. Would you hazard a guess to how much paper or how much your budget has been impacted by going electronically? [LB222]

RICHARD BROWN: I can tell you, Senator, that the bill has been in effect for about six and a half months. We have received 148 reports that have come in, and I don't think it has impacted our budget very significantly. But I think it would show up in the various agencies that prepare and submit those reports and also would add the distribution cost that would be associated with it. [LB222]

SENATOR PRICE: Okay. Great. I thought we...because I know we get a lot of them to the office and we're not getting quite so many. It's making it a little easier on our

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cabinets and on the staff when they move us from office to office. So I didn't know if you had noticed the same. Thank you. [LB222]

SENATOR AVERY: Any more questions? Let me ask you one. What do you think ought to be done with agencies that just don't report when they're required to report? [LB222]

RICHARD BROWN: I don't know. I mean, to the best of my knowledge all of the reports that are actually required with any specificity, those requirements are being met. It's the situation where it's kind of voluntary to submit reports or it is sometimes very unclear where the reports would come in. For example, there was a provision that was passed I think in 1992 that related to political subdivisions, and the law required that if they utilize that particular provision of law, then they were to report to us. There obviously are no situations that we know of where the law was utilized because there were no reports to tell us that they did. So we don't know who we would ask. There's a lot of subdivisions, and we certainly didn't contact everybody and say, have you ever used this? [LB222]

SENATOR AVERY: Well, I was looking here on the front page of this handout, and it shows that in 1975 the Department of Roads was to report to the Clerk of the Legislature and a column here that says "report received" and the comment is "not received." Nineteen seventy-five, every two years you're supposed to report? That one, of course, is being recommended for elimination. [LB222]

RICHARD BROWN: There also could be situations, Senator, where they have reported the information but they have done it in a broader report that doesn't necessarily identify what it's coming in response to. When we were talking with the reports that were coming in--if you put them by section--that it may have been some agencies incorporated that particular aspect in the overall greater report. And that would be something that would be real difficult to catch. [LB222]

SENATOR AVERY: And you go right up to the first one there, Dairy Industry Development Board. Report annually...2000 they reported, 2005 they reported, 2007 they reported, 2011, then 2012. You had a four-year hiatus, a two-year hiatus, a five-year hiatus. So this has come up before this committee before and in the Exec Committee as well. It disturbs me when we make laws that require reports--and whatever the law might be--and then the agencies don't respond or just flagrantly ignore it. You know that's a problem. Any other complaints? Thank you, Mr. Brown. Any other proponent testimony? We're on LB222. Anybody wish to testify in opposition? Any neutral testimony? Your turn, Senator. Do you want to close? Senator waives closing. That ends the hearing on LB222, and we will now go to LB217. And since that is mine, I will pass the chair over to the Vice Chair. [LB222]

SENATOR PRICE: Senator Avery. [LB217]

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SENATOR AVERY: (Exhibit 1) Thank you, Senator Price. My name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in Lincoln. If the page would come here, I have something for you to pass out. There should be enough there for everybody here. LB217 is a bill that the Government Committee usually tackles about every six to eight years, something like that. At least every few years we report a bill out that deals with salaries of the constitutional officers. Unlike we here in the Legislature, salaries of constitutional officers are set in statute. It's up to the Legislature to periodically review these salaries for a necessary adjustment. It is, by tradition, the Chair of the committee carries this bill. You might want to know how we got to the numbers that you see on that chart. The chart that you have there, of course, lists all of the constitutional officers, their salaries before 2003, the increase that they received in 2003, and then it goes on up to 2007 which was the last increase, and then the proposed increase. I'll call your attention to that right-hand column there, the national average for each position. Keep that in mind as we talk about this. This bill would give 20 percent pay increases to the constitutional officers. And I know that at first glance that might look like a lot, especially when compared to how much we've received in the same amount of time. But let me tell you how we got to that number. First, the staff of the Government Committee looked at the last time the constitutional officers received a raise--that was 2007. And as you know, because of a constitutional provision, the compensation of a public officer cannot be increased or diminished during his or her term of office. That's why the salary increases need to be done now; it's because they would need to go into effect in 2015. So anybody who is currently in office and is termed out would not be affected by anybody currently in office who runs again would not be affected until they are sworn in for their next term. By the time this bill goes into effect, they would not have had a pay raise for eight years. The next thing we did was to examine the pay of constitutional officers in other states, and you have that information. Well, you don't have it for all the states but you have the national average on the right-hand column. As you can see, most of the constitutional officers' salary in Nebraska will still be lower than the national average even when you take into account the pay increases proposed in this bill. The one exception is a slight bit more pay for the Lieutenant Governor than it is for the national average. But that still does not exceed the 20 percent recommended pay raise. You will also note on the chart that the past pay increases for constitutional officers have generally been greater than 20 percent, so this 20 percent is not outrageous. Looking in the middle column there, increase in 2007: the Governor's increase was 23 percent, the Public Service Commission received 50 percent. So this is not outrageous given past raises. In the past, the raises have actually...my notes say that the lowest was 16 percent. That's for the Attorney General in 2003. The final factor we took into account was the pay increase of state workers over the past five years. And for those covered under union contracts, the pay increases have generally been around 2 percent a year. Recently there have been years when state employees received no pay increases, other years their increases ranged from 2 to 3 percent. And your average state employee's increase as well as speculating about future increases, you'd calculate that a state employee would receive about 16 percent increase for the same eight-year

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period. The pay increase contained in this bill is 20 percent for all of the constitutional officers. Now this might seem large. I would remind you though that eight years is a long time to go without a pay increase, and that constitutional officers may not get another increase until after 2015. If we do not pass this bill now in whatever form we decide to recommend, then it could be well past 2015 before it gets revisited. So here are the specific provisions of LB217. Let me sum it up this way: Beginning on January 8, 2015, the salaries of the constitutional officers will be for Public Service Commissioners it will be \$90,000 a year; current salary is \$75,000. For the Governor the salary would be \$126,000; current salary is \$105,000. And I would note that the average nationwide is over \$131,000. The Attorney General would be \$114,000; the current salary is \$95,000. For the Secretary of State it would be \$102,000; current salary is \$85,000. For the Auditor of Public Accounts salary would be \$102,000; the current salary is \$85,000. For the State Treasurer, \$102,000; the current salary is \$85,000. For the Lieutenant Governor the salary would be \$90,000; current salary is \$75,000. So that's what's being proposed in this legislation. We don't have to do it, but it's probably the right thing to do. And I'd be happy to answer any questions. [LB217]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions from the committee? Senator Scheer. [LB217]

SENATOR SCHEER: Thank you, Senator Price. Senator Avery, just curious, your opinion if these salaries seem to be adequate for the position. And I know sometimes positions are clotted by the person in the position, but when you look at the responsibility that these positions have, is this fair remuneration for what they're doing? [LB217]

SENATOR AVERY: Well, I think it's realistic. Fair is in the eye of the beholder, I guess. I would like to see the salaries of our top constitutional officers be closer to the national average. We sort of pay our football coaches at that level and other coaches. And I'd be hard-pressed to say that that's more important than being the Governor of the state of Nebraska. I would point out that it doesn't matter who the person is. As you said, it doesn't matter who the person is holding the job. I mean, it's a lot of responsibility. [LB217]

SENATOR SCHEER: Thank you. [LB217]

SENATOR PRICE: Thank you, Senator Scheer. Senator Karpisek. [LB217]

SENATOR KARPISEK: Thank you, Senator Price. Senator Avery, does the mood of the public have anything to do with what we should do on this, because if you saw our raise--I think it got about 30 percent "yes" votes? [LB217]

SENATOR AVERY: You know a lot of times these things, like the raise for

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senators--because it required a constitutional amendment--they sometimes generate a "no" campaign, as they say. There was some campaigning, I guess, that raised...that makes a big difference. In order for a constitutional amendment to succeed, you generally have to have an apparently powerful argument behind it that doesn't have to be articulated or you need an aggressive and vigorous campaign for it. We haven't had one of those since '88, and there was a statewide aggressive campaign I think led by Tom Osborne, as I recall. But I think you have to take into account the public mood, yes. And my office has been getting some rather interesting phone calls, not necessarily friendly. [LB217]

SENATOR KARPISEK: And I know that this wouldn't take effect until later, but maybe on who all that the people running the negative campaign were on our senators' raise. [LB217]

SENATOR AVERY: Are you asking me to identify who they were? [LB217]

SENATOR KARPISEK: It's just a comment. [LB217]

SENATOR AVERY: Okay. Thank you. [LB217]

SENATOR PRICE: Thank you, Senator Karpisek. Are there any other...Senator Bloomfield. [LB217]

SENATOR BLOOMFIELD: Thank you, Vice Chair. Senator Avery, populationwise have there been any numbers to compare? I'm just looking at the Governor. He's going to be \$5,000 short of the national average if we give him this raise. Where do we rank populationwise? Are we... [LB217]

SENATOR AVERY: We don't rank at the bottom but we certainly don't rank at the top. We're not even in the middle. [LB217]

SENATOR BLOOMFIELD: We're not in the top half are we? [LB217]

SENATOR AVERY: No. But I don't think that a per capita pay raise or compensation for the chief executive of a state it would be fair because Alaska and Wyoming wouldn't get paid much more than we do probably as state senators. [LB217]

SENATOR BLOOMFIELD: I would be curious as to what the governors get there. [LB217]

SENATOR AVERY: And if you did it per capita, then Jerry Brown in California would be doing pretty well. [LB217]

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SENATOR BLOOMFIELD: And he probably is. [LB217]

SENATOR AVERY: I think you have to compensate your chief executive and other constitutional officers based upon the amount of responsibility they have. And I'm not sure that the amount of responsibility, say the Attorney General has, is in any way directly related to the population. I mean, you still have things that every AG has to do, whether you have a large population or a small one. [LB217]

SENATOR BLOOMFIELD: Thank you. [LB217]

SENATOR PRICE: Thank you, Senator Bloomfield. Are there any other questions or comments? Seeing none, thank you, Senator Avery. We will now move to proponent testimony for LB217. Are there any proponents for LB217? Seeing none, we'll now move to opponents for LB217. Are there any who wish to oppose the bill? Seeing none, we will now move to neutral testimony for LB217. Would anybody like to testify in the neutral? Seeing none, Senator Avery you are clear to... [LB217]

SENATOR AVERY: I just established a record here. [LB217]

SENATOR PRICE: You are clear to...no, I drug it on. Senator Avery waives closing, and that will close the hearing of LB217. And I will turn it back over to Senator Avery for LB192. [LB217]

SENATOR AVERY: Thank you, Senator Price. All right, we will open the hearing now on LB192. Senator Karpisek, welcome. [LB192]

SENATOR KARPISEK: (Exhibit 1) Thank you, Senator Avery and members of the Government Committee. This one won't be quite as fast but I don't see the room full either. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. The purpose of LB192 is to provide more transparency around governing bodies by requiring them to disclose the names under which they conduct business. The bill amends Section 13-513 which directs the State Auditor to gather information from governing bodies about any interlocal or joint public agreement they participate in. We added an additional requirement for governing bodies to also register any trade names, corporate names, or other business names under which they operate. In talking with the State Auditor's Office, we determined that they already have a form and process used to gather information on interlocal and joint public agreements. I have provided a copy of that form for your reference. And if LB192 is passed, the form will be modified slightly to accommodate this additional information. In the past, I have introduced similar legislation to require political subdivisions to register with the Secretary of State or to include in their official name terminology that would clearly identify the organization as a political subdivision. I am introducing LB192 because there are still instances where Nebraskans are not sure if they're dealing with a

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governing body or a private company. And I would like to talk about LB486 that I introduced in 2005. [LB192]

SENATOR AVERY: You weren't here. [LB192]

SENATOR KARPISEK: I'm sorry, 2009. You're right, Senator Avery. March 5, 2009, it was LB486 and it was a constituent--not of mine--but from Norfolk who talked about his wife and son being in a vehicle accident in Norfolk. They were rear-ended by a vehicle. They were both taken by ambulance and released with no lasting effects. The wife, on the other hand, received a back injury--I'm sorry, the son was released with no lasting effects--however, the wife received a back injury as she was rear-ended and pushed into the car in front of her causing over \$8,000 damage to the vehicle. She was, again, treated at the hospital and as a result of the accident has suffered lifelong back injury, back pain that will never get better. The person driving the car is employed by Municipal Energy Agency of Nebraska and the vehicle was registered to them. If you were to look at the license plates on that particular vehicle, you would see that it had the typical three-letter, three-number configuration of private passenger cars within the state that are from the three larger counties. They did not want to appear that they were attempting to take any money from anybody or appear sue happy or anything like that. So they contacted Municipal Energy Agency advising them of the accident and what happened and that they felt that the agency was at fault, and asked them who they needed to contact in regards to getting the vehicle fixed and taking care of the medical bills. They spoke with the lady who they later found out was the counsel for the particular agency. She referred them to the insurance company and assured them that the insurance company would take care of any problems that they had. It appeared to be their fault for the accident. After numerous contacts with the insurance company over the next 18 months and after, about the length of time they realized that the wife would not get better, that she would always suffer back pain and always have some sort of medication or something to help control the pain. She also suffered from depression from issues in regards to this and taking medication. The bills will be ongoing for the rest of her life. When this person finally contacted an attorney about 18 months into it and advised what happened, the attorney spoke of the four-year time limit to file a claim. As he did his research, he found that Municipal Energy Agency of Nebraska is a political subdivision and that claims to them would fall underneath the Political Subdivisions Tort Claims Act. Had he made a contact within a week to his agency by phone explaining the situation, they needed to pay for my car to get fixed, had not made them any particular medical bills. In short, had they known that it was a political subdivision, they would have known it was a year and not the four-year time frame. This is an issue I've been concerned about for over five years, and now I believe this bill provides the best solution to the problem. As I've stated in the past, my goal is not to place an undue burden on business but, rather, to provide an easy and effective method for providing transparency to the public. Thank you for your time, and I'd be glad to try to answer any questions. [LB192]



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SENATOR AVERY: Do you recall, Senator, what happened? The bill didn't advance out of committee. Did you run out of time? [LB192]

SENATOR KARPISEK: I think there were quite a few opponents to that bill because it was written a little differently and maybe testifiers behind me may be able to remember it a little better, but there were a lot of people who didn't care for that bill because it was constraining them they felt. [LB192]

SENATOR AVERY: Okay. Questions? Senator Bloomfield. [LB192]

SENATOR BLOOMFIELD: Thank you, Senator Avery. The name you gave this sounds corporate. Do you remember what part of government they were tied to? Who was it when we get to the bottom of the file? [LB192]

SENATOR KARPISEK: I don't know, I guess. Maybe I can look through it a little bit more and find out. [LB192]

SENATOR BLOOMFIELD: It's immaterial, I was just... [LB192]

SENATOR KARPISEK: Uh-huh. Another example, Senator Bloomfield, I have here is a Pender Community Hospital. On their Web site they have Pender Community Hospital is a political subdivision. On the same Web site they have Legacy Garden Rehabilitation and Living Center that is not a political subdivision. So I think it's hard for someone to know. [LB192]

SENATOR BLOOMFIELD: Yeah. [LB192]

SENATOR KARPISEK: Again, I said earlier today I thought maybe last time, well, a year is a long time. Well, it's been a little over...a year ago that my dad passed away and you have a year to do the estate. I was moving pretty quickly by the end to get that done. And especially if you think you have the four years, you think...anyway, it cuts it very short. [LB192]

SENATOR BLOOMFIELD: Okay. [LB192]

SENATOR AVERY: Any other questions? Thank you, Senator. [LB192]

SENATOR KARPISEK: Thank you. [LB192]

SENATOR AVERY: The committee will now accept proponent testimony. Good afternoon. [LB192]

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RICH HITZ: Good afternoon. Richard Hitz, H-i-t-z, appearing on behalf of the Nebraska Association of Trial Attorneys, and we are appearing as proponents for this legislation. We're here today to state our support of this legislation, and again, the bill or the statute that's being amended is the Nebraska Budget Act. And in the purpose of that act, it identifies that the purpose of the Nebraska Budget Act is to require governing bodies of this state to which the act applies to follow prescribed budget practices and procedures and make available to the public pertinent information pertaining to the financial requirements and expectations of such government bodies so that intelligent and informed support, opposition, criticism, suggestions, or observations can be made by those affected. So essentially the purpose of the act is to allow citizens the opportunity to understand what's going on with their political subdivisions and their community-owned facilities. This amendment to the Budget Act would require that cities that are going to use trade names for a political subdivision of them would have to identify it. I have, just as an example--and I am an attorney and I do bring claims as the senator that introduced the legislation said--under the Political Subdivision Tort Claim Act. And it is...when a citizen comes to me and says something happened, I need to know if this is a government-owned facility, a city-owned or corporate-owned facility. They can't tell by the name. A nursing home in Verdigre, Nebraska, is called Alpine Village Retirement Center. It has nothing on the Web site that it's owned by the city, but it is owned by the city. A lot of people in the community would know that that's a city-owned facility. They have a board meeting, the city council meets and they talk. But if you have family members that aren't aware, they wouldn't know by just going and doing the things that a normal citizen would do is go to the Web site or look at the promotional materials. And certainly, we want cities to be able to have city-run facilities that are...if they have to market them to the public that are marketable. And so if they want to call their nursing home Alpine Home Retirement Village, they should be able to do that. But what this legislation would require is, is that to make sure the city would identify that they own that and make it easy for the community to understand that. And Senator Bloomfield, in your community as the senator talked about, the Pender Community Hospital is a government-owned facility. On their Web site they also have, in the same...you just click on a tab, you go to what used to be the Pender Care Center. Pender Care Center has now been changed, the name is now Legacy Garden Estates. That is not a government-owned agency. I had the experience of having a claim for a citizen against that facility, and we ended up filing a tort claim against the nursing home. And then we had spent several hours with the city attorney trying to unwind it...the claim that was brought that it wasn't a tort claim. So your city attorney had to spend a lot of time defending a tort claim that they weren't even a government agency. And I think what this bill does is it just requires the city or the government to identify clearly when they own a facility that's not named under their town. [LB192]

SENATOR AVERY: Thank you. Questions from the committee? Senator Lautenbaugh. [LB192]

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SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. And, sir, I didn't catch it when you checked in so I'll ask for the record at the start of your testimony, are you now or have you ever been a member of a firm with Lathrops in it? [LB192]

RICH HITZ: I am. I am an associate with Hauptman, O'Brien, Wolf and Lathrop law firm. [LB192]

SENATOR LAUTENBAUGH: Thank you, sir. [LB192]

SENATOR AVERY: Any other pertinent questions? Thank you, Mr. Hitz. [LB192]

RICH HITZ: Thank you. [LB192]

SENATOR AVERY: Any other proponent testimony? All right. Seeing none, any opponent testimony? Anybody wish to testify in a neutral position? Welcome, sir. [LB192]

GARY KRUMLAND: (Exhibit 2) Senator Avery and members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I will note that I did send a letter to the committee because I thought I was going to be tied up in Judiciary today; and I did get out so I will be here in person. Just a couple of comments about the bill. The bills in the past have been fairly broad and have been in other filing in other agencies and have been a real concern, and several of them had severe penalties. I like the idea that this is going to the State Auditor's Office and it's part of filing with some other things. The one question I still have--and I think this is tighter than it was--but I just want to make it clear that we're talking about a situation where a political subdivision has some sort of enterprise, like a nursing home, with a different name. We're not talking about a park or a library that's named after somebody, some of the basic government functions so that they would have to go through and list every entity that a city has as part of their normal functions, like in, for example, Lincoln would have to list every, you know, Anderson Library, Bennett Martin Library. I'm assuming that is not the intent of this, and if we...you know, if we can make it clear or at least if the Auditor knows that, that would alleviate some of the concern I would have about this. [LB192]

SENATOR AVERY: Thank you. Any questions from the committee? Senator Scheer. [LB192]

SENATOR SCHEER: Thank you for bringing that up because that does raise a question then. For example, a lot of the communities that now have, for example, a water park. And I'm not sure if they're independent agents or not from the city. You know, they will get some funding via some tax support but it could be tourism dollars going into a private entity too, so that does bring up, I think, a good point as far as at what level they

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have to provide that information. But thank you for bringing it forward. [LB192]

GARY KRUMLAND: And I just would like to...we'd like to make it clear to people, you know, cities know what they're having to file and where that line is. [LB192]

SENATOR AVERY: Any others? Thank you. [LB192]

GARY KRUMLAND: Uh-huh. [LB192]

SENATOR AVERY: (Exhibit 3) Any more neutral testimony? Senator Karpisek. While you're coming up I will read into the record a letter of support from the Nebraska Auditor of Public Accounts. [LB192]

SENATOR KARPISEK: Thank you, Senator Avery and members of the commission. Senator Bloomfield, I should have known this, but that is the MEAN--Municipal Energy Agency of Nebraska. MEAN is a power supply transmission company which serves more than 60 communities in Colorado, Iowa, Nebraska, and Wyoming. Now when you hear MEAN, it makes a little more sense. I'd be glad to talk to the Auditor with Mr. Krumland's concern. I don't think, either, that that is what we intend to have happen. Another way to go about this would be to change the numbers of years, and I don't think that a lot of people would be very happy about that. So that is the way I'd rather go about it this way and not make it be terribly burdensome. But I think it would be bad if someone was hurt and you just didn't file in time because you didn't know. Thank you. [LB192]

SENATOR AVERY: Any more questions? All right. Thank you. Oh, sorry, late hand. Senator Bloomfield. [LB192]

SENATOR BLOOMFIELD: Thank you. If we don't include parks and such things and if someone gets hurt on the park or any other city-held piece of property, how do they know? I almost think maybe we need to go there. [LB192]

SENATOR KARPISEK: Well, that's a good question, Senator Bloomfield. I guess I was thinking that you would be able to find that out easier or you would... [LB192]

SENATOR BLOOMFIELD: I suppose you could. [LB192]

SENATOR KARPISEK: ...know that you would want to check because, I mean, in my assumption which would be wrong, I would think that most parks would be municipally owned. But probably which is not true, but...or some government-owned, but that's not necessarily true either. [LB192]

SENATOR BLOOMFIELD: Not when you're looking at... [LB192]

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SENATOR KARPISEK: Bigger towns. [LB192]

SENATOR BLOOMFIELD: ...at "Smalley" Park. [LB192]

SENATOR KARPISEK: Uh-huh. [LB192]

SENATOR BLOOMFIELD: You know, is that owned by the city or is it something that Ed Smalley donated? [LB192]

SENATOR KARPISEK: Yeah, I mean again my assumption, which could be wrong is that the city...it was donated to the city, the city named it after the donor. But, again, I think at least on things like that you would know to check sooner; possibly not. [LB192]

SENATOR AVERY: That I think ends it. That ends the hearing on LB192 and our business for today. Thank you all for coming. [LB192]